# IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

CIVIL ACTION NO. 3:21-CV-00092-RJC-DSC

STATE AUTOMOBILE MUTUAL INSURANCE COMPANY,	)
Plaintiff,	)
v.	) MEMORANDUM AND ) RECOMMENDATION AND ORDER
ALDEN JOHN WHITEHEAD AND ELISE CLOUTIER-CHENIER,	) ) )
Defendants.	)

## MEMORANDUM AND RECOMMENDATION AND ORDER

**THIS MATTER** is before the Court on Plaintiff's "Motion for Judgment on the Pleadings" (document # 14) and "Memorandum ..." (document #15).

This is a declaratory judgment action. Plaintiff seeks a judgment determining that it does not have a duty to defend any of the claims asserted by Defendant Elise Cloutier-Chenier against Defendant Alden John Whitehead. These claims arise out of the alleged murder of their son Louis-Charles Gilbert Chenier by Alden Whitehead.

On April 21, 2021, the Clerk of Court entered default against Defendant Whitehead. See document #7.

On October 12, 2021, Defendant Cloutier-Chenier filed her "Notice of Intent to Not File Responsive Pleading" (document #18).

For those reasons, and the other reasons stated in Plaintiff's brief, the undersigned respectfully recommends that its Motion be granted.

## **ORDER**

IT IS HEREBY ORDERED that all further proceedings in this action, including <u>all</u> discovery, are **STAYED** pending the District Judge's ruling on this Memorandum and Recommendation and Order.

#### RECOMMENDATION

**FOR THE FOREGOING REASONS**, the undersigned respectfully recommends that Plaintiff's "Motion for Judgment on the Pleadings" (document # 14) be **GRANTED**.

## **NOTICE OF APPEAL RIGHTS**

The parties are hereby advised that pursuant to 28 U.S.C. §636(b)(1)(c), written objections to the proposed findings of fact and conclusions of law and the recommendation contained in this Memorandum must be filed within fourteen days after service of same. Failure to file objections to this Memorandum with the District Court constitutes a waiver of the right to de novo review by the District Judge. Diamond v. Colonial Life, 416 F.3d 310, 315-16 (4th Cir. 2005); Wells v. Shriners Hosp., 109 F.3d 198, 201 (4th Cir. 1997); Snyder v. Ridenour, 889 F.2d 1363, 1365 (4th Cir. 1989). Moreover, failure to file timely objections will also preclude the parties from raising such objections on appeal. Thomas v. Arn, 474 U.S. 140, 147 (1985); Diamond, 416 F.3d at 316; Page v. Lee, 337 F.3d 411, 416 n.3 (4th Cir. 2003); Wells, 109 F.3d at 201; Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).

The Clerk is directed to send copies of this Memorandum and Recommendation and Order to the parties' counsel, and to the Honorable Robert J. Conrad, Jr.

## SO ORDERED AND RECOMMENDED.

Signed: October 14, 2021

David S. Cayer

United States Magistrate Judge